

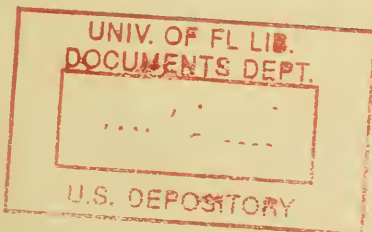
NATIONAL RECOVERY ADMINISTRATION

PROPOSED CODE OF FAIR COMPETITION

FOR THE


RECLAIMED OIL INDUSTRY

AS SUBMITTED ON AUGUST 30, 1933



The Code for the Reclaimed Oil Industry
in its present form merely reflects the proposal of the above-mentioned
industry, and *none of the provisions contained therein are*
to be regarded as having received the approval of
the National Recovery Administration
as applying to this industry

UNITED STATES
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CODE OF FAIR COMPETITION FOR RECLAIMED OIL INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policy of title I of the National Industrial Recovery Act, during the period of emergency, by reducing and relieving unemployment, improving the standards of labor, eliminating competitive practices destructive of the interests of the public, employees and employers, relieving the disastrous effects of overcapacity, and otherwise rehabilitating the Oil Reclaiming industry and by increasing the consumption of industrial and agricultural products by increasing purchasing power, and in other respects, the following provisions are established as a code of fair competition for the Oil Reclaiming industry:

ARTICLE II—PARTICIPATION

Participation in this code, and any subsequent revision of or addition to the code, shall be extended to any person, partnership or corporation in the Oil Reclaiming industry who accepts his share of the cost and responsibility, as well as the benefit, of such participation by becoming a member of the Oil Reclaimers association. No initiation or entrance fees shall be charged. (As this is a local organization to date, dues or assessments of a national organization have been left open pending the formation of an Emergency National Committee.)

ARTICLE III—DIVISION OF THE INDUSTRY

A. POWERS

For the purpose of the administration of this code the Oil Reclaiming industry shall be divided into divisions as set forth below. Each division shall designate or establish its own administrative agency or agencies. Each such division shall be independent and self-governing in respect of all conditions and problems relating exclusively to the said division. Proposals in respect of matters affecting more than one division may be initiated by any division, and shall be submitted for consideration to the Emergency National Committee of the Oil Reclaiming industry, hereinafter described, and its determination shall be binding upon said division and all other divisions affected thereby.

B. NAMES OF DIVISIONS

Divisions are hereby established as follows: California Oil Reclaimers Association.

C. EXECUTIVE COMMITTEE

This division, and any others which may subsequently be formed within the Oil Reclaiming industry, shall set up an executive committee for the purpose of administering the provisions of the code, to

secure adherence thereto, to hear and adjust complaints, to consider proposals for amendments thereof and exceptions thereto, and otherwise to carry out within the division the purposes of the National Industrial Recovery Act as set forth in this code.

If a division, as named above, does not concur in the submittal of this code; or if, at any time thereafter, a division fails to perform its obligations as provided hereunder, the Emergency National Committee of the Oil Reclaiming industry, hereinafter described, is hereby empowered to adopt a code for the division and may provide for the administration of that code as if said Emergency National Committee were the executive of the division concerned.

ARTICLE IV—DIVISION REGULATIONS

A. POWERS

The labor code established by the said division shall, upon approval of the Emergency National Committee of the Oil Reclaiming industry, be binding upon all producers of products in such division. The labor code of each division shall contain the following provisions:

(a) Employees in the Oil Reclaiming industry shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organizations or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

B. LABOR CODE

(a) No employee in the Oil Reclaiming industry, and no one seeking employment therein, shall be required as a condition of employment to join any company or union or to refrain from joining a labor organization of his own choosing.

(b) Employers of labor in the Oil Reclaiming industry agree to comply with the maximum hours of labor, minimum rates of pay, and other working conditions approved or prescribed by the President.

And, in addition,

(c) A classification of kinds of labor in the Oil Reclaiming industry, as follows:

Refinery Employees (Stillmen and Laborers).

Truck Drivers.

Clerical.

Salesmen.

(d) Maximum hours for each class of labor, and exceptions, as follows:

	Hours per week
Refinery Employees (Stillmen and Laborers)	40
Truck Drivers	40
Clerical	40
Salesmen	40

(e) Minimum wage for each class of labor, and exceptions, as follows:

Refinery Employees-----	{ Stillmen-- 50¢ per hour.
	{ Laborers-- 40¢ per hour.
Truck Drivers-----	40¢ per hour and/or commission.
Clerical-----	40¢ per hour.
Salesmen-----	65¢ per hour and/or commission.

C. PRODUCTION CODES

This division, and any others which may subsequently be formed, shall promptly undertake the formulation of a production code. This code shall operate within the limits of the production quota of the division as determined by the Emergency National Committee, and on such equitable basis, and for such period, as it shall determine, and shall allot a maximum production to each producer of reclaimed products in operation, or which proposes to operate, within the said division.

This industry was originally formed for the express purpose of conserving natural resources. Production is governed by amount of oil drainings available. It shall be the duty of the Board of Directors to set a maximum production figure on the last day of each month which shall govern the production for the following month.

Production of reclaimed products in excess of his approved allotment, during any period by any producer of reclaimed products after having received from said established division a production allotment on the basis approved by the Emergency National Committee, is an unfair method of competition, and the offender shall be penalized by an assessment of 2 percent on the first 25 percent over his allotment, 5 percent on the next 25 percent, and 10 percent on all over; receipts to go into a common fund for the benefit of the industry.

D. COST CODES

This division, and any others which may subsequently be formed, shall proceed at once to provide for standard methods of costing which shall be used by all reclaimers within this division for the purposes of this section of the code.

It shall be an unfair method of competition for any such reclaimer to sell below reasonable cost. What is statistically known as the "mode" may be used as a reasonable cost, but must be so approved by the Executive Committee.

Dropped lines or surplus stocks, sometimes designated as "close-outs", or inventories which must be converted into cash to meet immediate needs, may be sold at such prices as are necessary to move the merchandise into buyers' hands. However, all such stocks must first be reported to the Executive Committee of the Division, and be disposed of subject to the approval of that committee.

ARTICLE V—EMERGENCY NATIONAL COMMITTEE

A. REPRESENTATION

There shall be an emergency national committee of the Oil Reclaiming industry, to consist of a representative, or representatives,

of each division, selected by the said division, representatives of the industry at large, to be selected by divisional members, and representatives of other groups which may be entitled to representation, for the present named as follows: California Oil Reclaimers Association.

B. POWERS

This Emergency National Committee shall be the general planning and coordinating agency for the industry. Its members, selected by established divisions, shall be empowered by the said divisions to act for them conclusively in respect to all matters before the committee for consideration and within its jurisdiction. The committee shall have powers and duties as provided herein, and in addition thereto it shall—

(a) From time to time require such reports from divisions as in its judgment may be necessary to advise it adequately of the administration and enforcement of the provisions of this code;

(b) Upon complaint of interested parties, or upon its own initiative, make such inquiry and investigation into the operation of the code as may be necessary; and

(c) Make rules and regulations necessary for the administration and enforcement of this code. The committee may delegate any of its authority to the National Control Committee hereinafter provided, and may designate such agents as it shall determine.

The Emergency National Committee of the Oil Reclaiming industry in cooperation with, and subject to the approval of, the properly designated representatives of the President under the National Industrial Recovery Act, shall determine, and from time to time revise, an estimate of expected reclaimed oil consumption; and based thereon, it shall establish, and from time to time revise, an equitable production quota of the Oil Reclaiming industry and for each division thereof.

ARTICLE VI—INDUSTRY REGULATIONS

A. MARKETING CODES

The Emergency National Committee may establish a marketing code with provisions with respect to:

(a) Group selling;

(b) Classification of outlets or purchasers and recognition of standard and economically justifiable price differentials among them;

(c) Division of consuming territory into market areas, providing for plants best equipped to serve particular markets, to concentrate sales efforts in such districts;

(d) Adoption of uniform grading of products;

(e) Simplification and standardization of products;

(f) Cooperative advertising for the industry;

(g) Collection and interchange of credit information;

(h) Cooperative administration of insolvent debtors;

(i) And/or other aspects of marketing.

B. TRADE PRACTICE RULES

The Emergency National Committee shall hold a trade practice conference at its earliest convenience to establish rules of fair trade practice for the entire industry, other than the following:

(1) Price Changes

All price changes will be set by the Executive Committee of the Division, and each reclaimer must be notified of the change at least twenty-four hours before prices are effective.

Abnormal deliveries in anticipation of price advance and acceptance of orders for subsequent deliveries at prices effective before advances are prohibited.

(2) Price Discrimination

It is an unfair trade practice for any person engaged in interstate commerce, in course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce; provided, that nothing herein contained shall prevent discrimination in price between purchasers of the same class on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for differences in the cost of selling or transportation, or discrimination in price in the same or different communities made in good faith to meet competition; and provided further, that nothing herein contained shall prevent persons engaged in selling the products of this industry in commerce from selecting their own customers in bona-fide transactions and not in restraint of trade.

(3) Commercial Bribery

Directly or indirectly to give or permit to be given or offer to give money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, is an unfair trade practice.

(4) Misrepresentation

The making or causing or permitting to be made or published any false, untrue, or deceptive statement by way of advertisement or otherwise concerning the grade, quality, quantity, or character of any product of the industry having a tendency and capacity to mislead or deceive purchasers or prospective purchasers, is an unfair trade practice.

(5) *Terms of Sale, Price Lists*

(a) The industry approves the practice of each individual member of the industry individually publishing and circulating to the purchasing trade its own price lists.

(b) The industry approves the practice of making the terms of sale a part of all published price schedules.

(6) *False Invoices*

Withholding from or inserting in the invoice statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, is condemned by the industry.

(7) *Secret Rebates*

The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers, under like terms and conditions, with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice.

(8) *Defamation*

The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade or quality of their goods, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers, is an unfair trade practice.

(9) *Sales below cost*

The selling of goods below cost with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice.

(10) *Service charges*

As the oil-reclaiming industry was first developed by the United States Government, and is still being continued by the government in its various departments, such as army, navy, air corps, and civil branches, to conserve the natural resources, and as the storage of large quantities of crank-case drainings at a service station has been declared a serious fire hazard by all large city fire departments, and a menace to sanitation when poured in sewer systems, to charge for the service of collecting crank-case drainings, or paying cash or premiums for said crank-case drainings, is an unfair trade practice.

(11) *Custom reclaiming for individuals*

The reclaiming of crank-case drainings by any reclaiming plant either commercial or custom, for any jobber, service station owner, individual or group of individuals, who furnish their own drainings, whether drainings are collected in one location or tank, or in a series of locations or tanks, from which all or any portion of oil reclaimed is to be sold or offered for sale directly or indirectly is an unfair trade practice.

(12) INTERFERENCE WITH CONTRACTS

Willfully inducing or attempting to induce the breach of existing contracts between competitors and their customers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or embarrassing competitors in their business, is an unfair trade practice.

(13) ESPIONAGE

Securing information from competitors concerning their businesses by false or misleading statements or representations or by false impersonations of one in authority and the wrongful use thereof to unduly hinder or stifle the competition of such competitors, is an unfair trade practice.

The Emergency National Committee may authorize any one division to adopt fair trade practice rules relating to the practices peculiar to that division.

ARTICLE VII—STATISTICS

In order to provide data necessary for the administration of the National Industrial Recovery Act, the members of the Oil Reclaiming industry shall furnish, and the Emergency National Committee shall gather, statistical information from all members of the industry, as follows: (a) Capacity; (b) Production orders, and shipments during the month; (c) Unfilled orders and inventories (raw and finished) on hand at the end of the month; (d) Number of persons employed, wage rates, earnings, and hours worked; (e) Accounts receivable at the end of the month; (f) Price, costs; (g) and other items at the option of the industry.

ARTICLE VIII—NATIONAL CONTROL COMMITTEE

The Emergency National Committee of the Oil Reclaiming industry shall appoint from its own membership a National Control Committee of three (3) members. The National Control Committee shall exercise such authority as may have been delegated to it by the said Emergency National Committee.

All communications and conferences of the Oil Reclaiming industry with the President or with his agents concerning the approval or amendment of this code, or any of its provisions, or any matters relating thereto, shall be through the said National Control Committee. The National Control Committee shall serve as an executive agency for the Emergency National Committee of the Oil

Reclaiming industry, and shall be charged with the enforcement of the provisions of this code and with the duties, through agents or otherwise, of hearing and adjusting complaints, considering proposals for amendments and making recommendations thereon, approving recommendations for exceptions to the provisions of this code, and otherwise administering its provisions. Any division or any adherent to the provisions of this code or subject to its terms shall have the right of appeal to the Emergency National Committee from decisions of the National Control Committee, and the decision of the said Emergency National Committee on said appeal shall be final.

The function of this committee shall be the general planning and coordinating for the Oil Reclaiming industry, and the cooperation with similar boards of other industries, to the end of effecting a balanced national economy.

ARTICLE IX—GENERAL

1. No provision in this code shall be interpreted or applied in such a manner as to—

- a. Promote Monopolies.
- b. Permit or encourage unfair competition.
- c. Eliminate or oppress small enterprise; or
- d. Discriminate against small enterprises.

2. This code, or any of its provisions, may be cancelled or modified, and any approved rule issued thereunder shall be ineffective to the extent necessary to conform to any action by the President under Section 10 (b) of the National Industrial Act.

3. The Emergency National Committee of the Oil Reclaiming industry and the National Control Committee shall from time to time make to each division established, or to be established, under the provisions of this code, such recommendations, including amendments of the code, as in their judgment will aid the effective administration of this code or may be necessary to effectuate within the Oil Reclaiming industry or within any division thereof the purpose of the National Industrial Recovery Act as administered.

4. Amendment to this code may be proposed by any established division to the Emergency National Committee or may be initiated by it, and when approved by the President shall be effective.

5. Violation by any producer of the Oil Reclaiming industry of any provisions of this code, or any approved rule issued thereunder, is an unfair method of competition.

6. In order to avoid undue delay in making effective throughout the Oil Reclaiming industry this code of fair competition, the following provisions are adopted, and other provisions of the code in conflict therewith are suspended until such time as the Emergency National Committee shall determine that the purposes of the article have been accomplished:

A. Each established division shall submit as promptly as possible to the Emergency National Committee, a complete division code in conformity with the general provisions of this code. Such divisional code, if found substantially to promote the purposes of the National Code, shall be accepted provisionally by the Emergency National Committee and its immediate enforcement authorized. The Emergency National Committee shall thereupon proceed as rapidly as prac-

licable to make such adjustments of and coordination between the provisions in respect of hours, wages, productions, and costs of several divisional codes as may be necessary to bring them into conformity with the provisions of the National Code by:

1. Consultation and negotiation between the divisions affected.
2. By its own findings after full consideration of all factors involved.

B. If any division fails to submit within a reasonable time code provisions as provided in subsection (a) of this article, and if in the judgment of the Emergency National Committee such failure is unduly delaying the effective operation of this code, the said committee is authorized to act as divisional agency for said division and to submit on its behalf the necessary code provisions which, upon approval by the President, shall be effective until the said division shall have submitted satisfactory code provisions.

7. This code shall be in effect beginning ten days after its approval by the President.

8. The President may, from time to time, cancel or modify any order, approval, license, rule or regulation issued under title I of the National Industrial Recovery Act.

9. Such of the provisions of this code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated, if it appears that the public needs are not being served thereby and as changes in circumstances or experience may indicate. They shall remain in effect unless and until so modified or eliminated, or until the expiration of the act. It is contemplated that from time to time supplementary provisions to this code, or additional codes, will be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act and which shall not conflict with the provisions hereof.

10. If any provision of this code is declared invalid or unenforceable, the remaining provisions shall nevertheless continue in full force and effect the same as if they had been separately presented for approval and approved by the President.



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